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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,102	01/20/2004	Sylvie Gauthier	6674-0039-1	4561

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EXAMINER

CHEN, VIVIAN

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

C14

Office Action Summary

Application No.

10/762,102

Applicant(s)

GAUTHIER ET AL.

Examiner

Vivian Chen

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 6-19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/04; 1/26/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I in the reply filed on 1/12/2006 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 6-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 1/12/2006.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, the phrase "substantially flexible" is vague and indefinite because it is unclear what degree of flexibility constitutes "substantially" flexible.

Claim Rejections - 35 USC § 103

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over:

GERMAN PATENT APPLICATION DE 3433108 (DE '108);

in view KAGEYAMA ET AL (US 4,695,508).

DE '108 discloses a leather laminate comprising a leather layer bonded to a fiber-reinforced adhesive layer, wherein the leather layer optionally has a surface coating. (Abstract).

However, the reference fails to explicitly disclose polyester resin.

KAGEYAMA ET AL discloses that it is well known in the art to form a structural adhesive sheet comprising of a nonwoven fabric or other fiber reinforcement layer impregnated with a polyester resin-based adhesive to form durable flexible laminate structures (line 37, 58-65, col. 2)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to adhere a known polyester-based fiber-reinforced adhesive layer to a leather layer in order to form a durable, distortion-resistant article. One of ordinary skill in the art would have selected the thickness of the leather layer (claim 4) depending on the mechanical properties, wear resistance, flexibility, and aesthetic properties desired for specific applications. Regarding claim 1, the bonding conditions are a product-by-process limitation and is not further limiting in as so far as the structure of the product is concerned. "[E]ven though product-by-

process claims are limited by and defined by the process, determination of patentability is based on the product itself. *The patentability of a product does not depend on its method of production.* If the product in the product-by-process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." [emphasis added] *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113. Once a product appearing substantially identical is found, the burden shifts to applicant to show a *unobvious* difference between the claimed product and the prior art product. *In re Marosi*, 710 F.2d 798, 802, 218 USPQ 289, 292 (Fed. Cir. 1993). See MPEP 2113. The patentability of a product is based on the product itself, and is not dependent on its method of production.

3. Claims 1, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over:

STOYANOVICH (US 6,099,938).

STOYANOVICH discloses a leather laminate comprising a leather layer bonded to scrim layer via an intervening polyester melt adhesive layer with the application of heat and pressure. (line 12-30, col. 4; line 32-38, col. 5)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form a reinforced leather laminate by using a polyester adhesive layer to bond a reinforcing layer to the leather. Since the polyester adhesive is a melt-type adhesive, the application of heat and pressure would force molten adhesive into the reinforcing layer, thereby at least partially impregnating said reinforcing layer with polyester resin. One of ordinary skill in the art would have selected the thickness of the leather layer (claim 4) depending on the

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mechanical properties, wear resistance, flexibility, and aesthetic properties desired for specific applications.

Allowable Subject Matter

4. Claim 3 is would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. Claim 5 is allowable over the prior art of record.

6. The following is a statement of reasons for the indication of allowable subject matter:
The prior art of record fails to disclose or suggest a leather laminate, wherein the leather layer is backed by a polyester impregnated sheet and wherein the leather surface is covered with a resin-impregnated alpha-cellulose paper layer (claims 3, 5).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney, can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 16, 2005



Vivian Chen
Primary Examiner
Art Unit 1773